Although the Examiner indicates that claims 45 and 46 are objected to as being dependent upon a rejected base claim, the Examiner should have indicated that claims 45 and 46 are allowed since these claims are independent claims.

Claims 1, 2, 5, 38, 39-43 are rejected under 35 U.S.C. § 103(a) as being unpatentable over newly cited Gibson (USP 6,445,717) in view of Nakagaki (USP 5,657,316). Claims 9-11 and 18-20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibson in view of Nakagaki and Puuskari (USP 6,728,208). Claims 21, 22 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibson in view of Nakagaki and Terho (USP 6,507,590). Claims 29-31 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Gibson in view of Nakagaki, Puuskari and Terho. Applicant respectfully traverses the prior art rejections.

Applicant respectfully submits that independent claims 1, 5 and 38 would not have been rendered obvious in view Gibson and Nakagaki. In particular, Applicant respectfully submits that the cited references, alone or in combination, do not teach or suggest "inserting blank data into a part corresponding to lost data to re-form the entire collection of data, transmitting to an upper layer the re-formed data and signaling to the upper layer an indication of whether or not the blank data is inserted", as recited by claim 1 and similarly recited in claims 5 and 38.

The Examiner cites column 4, line 57 through column 5, line 3 of Gibson for allegedly disclosing transmitting to an upper layer the re-formed data and signaling to the upper layer an indication of missing data. Although the Examiner concedes that Gibson fails to disclose inserting blank data into a part corresponding to lost data to re-form the entire data collection, the Examiner asserts that Nakagaki discloses this feature. Further, the Examiner asserts that "[i]t

would have been obvious ... to include the determining of loss of data and inserting blank data of Nakagaki for the transmission process of Gibson for the purpose of creating the original data length."

Gibson discloses a system for recovering lost information in a data stream. Data which is transmitted over the Internet or other transmission networks is first divided up into individual information packets, transmitted and then reassembled into useful data after reception. Parity packets are included in with the information packets in the transmission of data in order to enable the regeneration of any information packets which were lost or damaged during transmission. The information packets and parity packets are grouped to form a chunk. Bursts of lost packets are recovered by interleaving the transmission of packets from different chunks. If the recovery is not successful then retransmission occurs.

Nakagaki discloses inserting divided user data into a fixed length data field of an ATM cell. In particular, as shown in Figs. 1 and 3A, each of ATM cells 123 includes a header 121 and the user data 122. Sequence numbers SN of the cells are attached to each of the user data 122, wherein the sequence numbers identify the order of sent ATM cells. When the received ATM cells have discontinuous sequence numbers SN, a receiving terminal can recognize the number of the lost cells. The original data length is be restored by inserting dummy data, e.g., all "zeros", of which length is the same as that of data of the lost cell into the lost field, as shown in FIG. 3B. However, Nakagaki does <u>not</u> signal or provide any indication to an upper layer whether or not the dummy data has been inserted. That is, the upper layer has no way of

knowing/determining whether the data it receives includes dummy data or actual user data since the actual user data may include, for example, a string of consecutive zeros.

Accordingly, Applicant respectfully submits that neither Gibson nor Nakagaki teaches or suggests signaling to the upper layer an indication of whether or not the blank data is inserted, as required by the claims.

Further, Applicant respectfully submits that one of ordinary skill in the art would not have been motivated to modify Gibson based on the teachings of Nakagaki to include this feature of the claimed invention. As discussed above, the Examiner asserts that it would have been obvious to modify Gibson based on Nakagaki "for the purpose of creating the original data length." However, Gibson aims to restore/reconstruct lost or damaged packets based on parity packets and remaining transmission packets and if the lost or damaged packets cannot be restored/reconstructed, the lost or damaged packets are retransmitted to the receiver. Thus, one of ordinary skill in the art would not have been to modify Gibson based on Nakagaki to insert dummy packets for lost or damaged packets "for the purpose of creating the original data length" since doing so would be contrary to Gibson's objective of recovering/reconstructing lost or damaged packets.

Accordingly, Applicant respectfully submits that independent claims 1, 5 and 38, as well as dependent claims 2, 9-11, 18-22, 25, 29-31 and 39-43, should be allowable because the cited references, alone or in combination do not teach or suggest all of the features of the claims, and one of ordinary skill in the art would not have been motivated to combine and modify the cited references to produce the claimed invention.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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23373
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Date: May 15, 2006